

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JACOB MCGRATH,
Plaintiff,

v.

DOORDASH, INC.,
Defendant.

Case No. 19-cv-05279-EMC

**ORDER RE SUPPLEMENTAL
BRIEFING**

Docket No. 257

The Court has reviewed Plaintiff's motion for approval of an FLSA settlement and for attorney's fees. Having reviewed the papers, the Court hereby orders that the parties provide supplemental briefing on the issues discussed below. A joint supplemental brief is strongly preferred. The brief shall be filed by noon, January 5, 2024. The Court also orders the *Brown* objectors to file a supplemental brief – within the same timeframe – on one specific issue identified below.

A. Arbitration

How many Dashers who opted into this case were sent to arbitration? What is the status of the arbitration?

B. Eligible Claimants

How many Eligible Claimants are there?

C. Unreleased Miles

How many Unreleased Miles do each of the following have: Plaintiff, Opt-In Plaintiffs, and Eligible Claimants?

1 D. Maximum Value of the Case

2 What is the maximum value of this case if Mr. Salmons were to prevail, assuming all
3 Eligible Claimants opted in (as well as Opt-In Plaintiffs)? What would the average payout be?

4 E. Reverter

5 Are there authorities that discuss (whether approvingly or disapprovingly) a reverter in the
6 context of an FLSA settlement? What are they and what do they say?

7 F. Claims Rate

8 Provide some concrete calculations regarding the Section 216(b) Settlement Amount if the
9 claims rate were only 30% and 65% – *i.e.*, how much goes to attorneys' fees and how much goes
10 to the collective members (including average payout)?

11 G. Attorneys' Fees12 1. Lodestar

13 Plaintiff has provided limited information regarding the asserted lodestar. Provide more
14 specifics about the asserted lodestar, both the number of hours and the hourly rates. It would be
15 helpful for Plaintiff to estimate the number of hours spent on each major litigation task.

16 2. Comparison Between Fee Award and Net Settlement Amount Available for
17 Distribution to the Collective

18 Given the anticipated claims rate, what will the likely fee award be and how will it
19 compare to the likely net settlement amount available for distribution to the collective?

20 H. Brown Objectors

21 What response do the *Brown* objectors have to parties' brief at Docket No. 261?

22 Have the *Brown* objectors and the parties discussed modifying the release (and any notice
23 to the collective) to make clear that PAGA claims are not within the scope of the release?

24 I. Notice to the Collective (Exhibit C to the Settlement Agreement)25 1. Content of the Notice

26 In Question 6, should actual dollar amounts be included in the discussion of the attorneys'
27 fees?

28 Also in Question 6, should the discussion of the Settlement Amount include an example of

1 what the settlement amount would be and how that amount would be distributed if, *e.g.*, only 30%
2 or 65% of the Eligible Claimants opt in?

3 2. Means of Notice

4 Given that email notice will be the main means of notice (in the first instance), is there a
5 means by which the settlement administrator can confirm that notices that are emailed are (1)
6 received and (2) opened?

7 How expensive would it be to issue mail notice to all Eligible Claimants?

8 Have the parties discussed giving notice through the DoorDash app that is used by
9 Dashers?

10 3. Reminder Notice

11 Will a reminder be notice be given and, if so, how, when, and what will its contents be?

12 J. Communications Regarding Settlement

13 Will § VII.2 of the Settlement Agreement prevent Plaintiff from informing Eligible
14 Claimants about the settlement through, *e.g.*, social media or otherwise promoting the settlement
15 to Eligible Claimants?

16
17 **IT IS SO ORDERED.**

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19 Dated: December 26, 2023

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22 EDWARD M. CHEN
23 United States District Judge
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